



**CITY OF ABSECON
Municipal Complex
500 Mill Road
Absecon, New Jersey 08201**

PLANNING & ZONING

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**DECEMBER 11, 2019
PLANNING BOARD
MEETING MINUTES**

The meeting was called to order at 7:00 p.m.

**FLAG SALUTE
NOTIFICATION OF MEETING**

ROLL CALL

Present: Ciccone, Aleli, Seher, Tiberio, Kirk, Reilly, Gersh, Strugala, Howell, Preston

Absent: Horton

OLD BUSINESS:

Vote: Approval of Minutes of November 13, 2019 meeting
Motion to approve: Nick Tiberio – second – Greg Seher

NEW BUSINESS:

Bob Preston recused himself since he lives within 200 ft. of the property

Appl. #5-2019 for EMD Real Estate Holdings, LLC for a 3 lot Minor Subdivision at 506 Sooy Lane – Block 21, Lot 32

Ralph Paul Busco, attorney for applicant and Matthew Doran appeared on behalf of the applicant

Paul – explained this is a by-right subdivision and the current home will be taken down and the parcel subdivided into three parcels. The owner's intentions are to build one house for his daughter, but not sure about the other two yet.

Matt – stated his qualifications and was accepted by the board. He described the location and square footage of the total lot and each of the lots to be subdivided. One house would front Sooy Lane having 19,320 sq. ft. and the other two would front on 4th Avenue at 10,100 sq. ft. each. The zone requires 75 ft. frontage and 10,000 sq. ft. of area, so all three lots will comply. The meet all the bulk requirements and will file by plot plan.

Paul – based on Andy's report dated 12/10/19, there is the requirement of some waivers. He went through the list numbered 1 through 16. He read off #1; #8; will be complying with and they will keep the water on the site and with no increased water flowing into the street; calculations will be provided to Andy; #9, they will file by plat and #15, all the taxes are paid.

Matt – the property sits in a flood zone "X", where there is no base flood elevation for it and not subject to tidal flooding, so they asked for a waiver of the larger flood report. Water and sewer are available so the houses can hook up. He spoke to owner today and he is going to consider going to council for a waiver of curb and sidewalks. The predominance in the area is no curbing and sidewalks. He went through Rob's comments and addressed its issues. The demolition of the current home could be made a condition of approval and he said the monuments would be set before the signing of the plan.

Andy – his report is dated 12/9/19. We've heard testimony regarding the waivers and the flood data can be waived on a minor subdivision. They did say when the lots would be designed to retain on site any excess water that is created by the development. This is just a subdivision of land. There is no requirement to put any site improvements in. There is no need to extend utilities to service these lots, so there is really no engineering design with this application and none is required. When they apply for building permits, the construction official has the right and authority to require a grading plan, address any issues he is aware of and he can go to the City Engineer for support if he needs to. Unless there are variances you can use as leverage to require certain things, there is nothing that you can really require in a by-right subdivision. The fact that they are agreeing to retain on site excess storm water is a good thing and a plus. The existing house would have to be demolished before the signing or filing of the plat or a bond posted, so the applicant would have to decide. You have 190 days to file the subdivision. The monuments would be set as well before the filing.

Rob – his report is dated 12/3/19. He recommended approval of the waivers subject to Andy's comments. The only other approval they need is Atlantic County approval and he has no issue with the flood zone data requirements, since it's not in a flood zone itself. It's a plus that the applicant agrees to keep the excess storm water on their property as well. The waiver for curb and sidewalk has to go to Council if they want that. He recommends board approval with his stipulations.

Greg – asked Andy if he saw a problem with any storm water when the properties are built out

Andy – the applicant has said they would retain on site any excess storm water runoff. They don't have to do that since it's a minor subdivision, but they have offered it. When it goes to the Construction Official for a building permit, then he could look at the development and he can make certain requirements. Since there are no variances, there is no leverage to require them to do that. If the lots are sold off, you'd have to have a deed restriction as to the retention of water on site. There are storm water recharge systems are commonly used to retain storm water on site; it is part of the best management practices we practice in New Jersey. He then explained a couple of ways to do it. He said the area and soil are pretty good for drainage in that area. Howlett Lane has a problem, but there is nothing the city can do because it's a privately owned lane.

John – asked if we could incorporate into the D&R the stipulation the applicant agreed to.

Andy – yes, you can.

Joe M. – it would be part of the D&R. Since there are 3 lots, you would need to have it travel with the property.

Matt D. – we understand the ways to handle it, but we need to know to what design criteria before we agree. We would need a reasonable solution and know what storm design to use. Each lot would have its own system.

Betty – the problem is that we have a drainage problem that ends up at Howlett Lane, which the city can't touch because it's a private lane. It comes from 4th Avenue. Our concern is adding three houses to that area instead of one and it could cause more problems down there. They have been before Council in trying to get this fixed.

Andy – feels the 2 or 5 year storm is reasonable.

Lou – wanted to know what coverage amount they would use to determine

Matt – it's awful hard to say since the owner is not here. He doesn't want to say anything for him. A standard set ability storm is normal to follow.

John – the applicant is offering to do this and they don't have to. We should take into consideration the reasonableness.

Jeff – thinks we should get a design plan ahead of time.

Greg – I don't see how we can do that. We heard they are willing to put the condition into the Resolution regarding the storm water excess being kept on their lots using the 2 or 5 year storm data. If we put this in the deeds, whoever builds would have to follow the guidelines. We don't want to put any undue hardship on the owner.

Betty – it's not against the owner, but we also represent the owners in the area.

Deborah – it seems to me with the deed restriction as to what you proposed out of good will, seems to be acceptable at this time. We can't predict the future.

Motion to open to the public – John Aleli – second – Michele Kirk
All were in favor.

Robert Preston – 601 Sooy Lane – he lives across the street from this site and he took some photos this morning from a snowfall melting. His property does have a concrete curb out of the four corners, so he likes the idea of the curbing requirement. There is no sidewalk anywhere so there is nowhere to connect it to. He believes it would be beneficial to storm water management. He has had no discussions regarding this project with any of the professionals either. He knows the trees have to come down, because the character of the site will change.

Kirk Heiland – 102 Howlett Lane – he showed some photos of his area and complained that he has a flooding problem at his house. He has been to the public works meetings many times. The storm water affects him big time. The city won't give him relief. If they build more homes, they can't capture all the water. Even though they plan on keeping the water on their property, what about the water in the street. The whole area has been minor subdivisions and there has been no storm water plan. Over the years, Mr. Howlett did all these minor subdivisions and nothing has been issued from Sooy Lane down to Howlett Lane. There is a bubbler on the corner that pushes water down the street. He wants this rejected unless there is some type of storm water management plan put in place.

Steve Light – 401 S. Shore Road – he applauds the applicant for coming to our community. He supports the concerns and the problems in the area. A solution should try to be had. It has been discussed at Public Works meetings and if the water at the intersection could be taken away it would help. He wants to see the city succeed and he wants to see development, but we need to come up with a plan to help the wants and needs of citizens. We want people to come to this town.

Betty closed the public portion.

Betty – visited the site and spoke to residents in that area and they are concerned. She has been to the Public Works meetings and has spoken to Mr. Heiland and she is concerned. We welcome people to come to town, but not at the cost of our residents.

Matt – we cannot take care of offsite water. That is not something we can do. We are willing to not make it worse by keeping the water from these properties on their sites. There are ways we can balance things out.

John – this is a by right subdivision and while there are concerns, the problem is that the area in question is a private lane. Maybe all the residents of that street can get together to try to come up with their own plan, but you can't put this on this applicant and future problems. It seems to me that the applicant has made an offer to mitigate as much as possible what they can do with their properties. They have a right to make reasonable use of their property. I appreciate the concerns of the people of Howlett Lane, but it's something that they have to deal with since they bought property along a private lane. As a member of the Planning Board, I am constrained by the letters of the law and it's a by right subdivision and there are no variances required.

Greg – this sounds like an issue between the residents and the city and this is in the vicinity of that problem. The applicant has strongly indicated that they will do everything they can to not increase the problem. I think we have had cases before where there were issues but the application on hand couldn't be held responsible for existing problems. All they can do is promise not to exacerbate the problem and they are agreeing to that.

Lou – if there are driveways put in onto Fourth Avenue, would you be willing to say there would be a drain at the end of the driveway and we would put that in the Resolution if possible?

Matt – explained how it could possibly be done if the balancing could not be handled on the property.

Andy – suggested considering including in the Resolution, the specifics that we could agree to relevant to the design standards. Also include that deeds be prepared for each property that include those standards. He suggested a few standards that could apply. Deeds could be prepared now with these standards.

Paul – he appreciates what the bigger problem is in the neighborhood and he doesn't want to lecture on the law, you have your solicitor here. As counsel for an applicant, this is a minor by right subdivision with no variance relief requested. Any type of deed restrictions that you are proposing, design standards for future development that you're asking the applicant to do right now, I can't agree to it unilaterally. I'd have to get authorization from my client. He does not want to sound like threatening, but if we came before a judge, the judge would not uphold a denial vote because the applicant didn't comply with approvals on a simple by right subdivision. It puts both sides on a **situation**.

John – if we can just put in the resolution what you have agreed to and not design standards that would help.

Joe – the language is easy for that and the clients have to agree to it. I don't disagree with what you have said, but the bottom line is trying to find something agreeable and workable for the town. We might want to table this and let the professionals talk and see the details they would want to put in the deeds.

Betty – I agree with you Mr. Busco that legally this should go through, but she feels she must represent the people in that district and they are concerned and have a reason to be. Whether it's because the city has dropped the ball and maybe they will do something, but even if you took it above this and we lose, it'd be okay with her. She needs to represent her residents.

Matt – I would like time to speak with Andy and come up with some ideas.

Paul – asked for a recess to see if he could reach his client. Ultimately, it's his decision.

Motion to take a short break – Greg Seher – second – Deborah Reilly

Paul – after speaking with my client, he is open to come up with some sort of plan to try to address the onsite water that they would generate on the development. It would need more discussion with the professionals, so it makes more sense for us to table this application and see if we can put our heads together and come up with an idea or plan that is acceptable to everyone.

Motion to table this application – John Aleli – second – Greg Seher

ROLL CALL: Ciccone, yes; Aleli, yes; Seher, yes; Kirk, yes; Reilly, yes; Tiberio, yes; Gersh, yes; Strugala, yes; Howell, yes

APPROVAL OF BILLS

Mike Fitzgerald – \$91.00 for WP Absecon; \$364.00 for general PB matters; \$169.00 for American Legion
Andy Previti - \$644.75 for WP Absecon

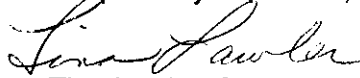
Motion to approve – Betty Howell – second – Michele Kirk

ROLL CALL: Ciccone, yes; Aleli, yes; Seher, yes; Kirk, yes; Reilly, yes; Tiberio, yes; Gersh, yes; Strugala, yes; Howell, yes; Preston, yes

ADJOURNMENT

Motion to adjourn meeting – Betty Howell – second – Greg Seher
All were in favor.

Respectfully submitted,


Tina Lawler, Secretary

Approved: 1-8-2020